

**FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U. S. C. Sec. 1983**

IN THE UNITED STATES DISTRICT COURT
Western DISTRICT OF ARKANSAS
DIVISION

Daniel Hurlbut

(Enter above the full name of the Plaintiff
in this action.)

Prison ID No. 658898
(Do Not Put Your Social Security Number)

FILED
US DISTRICT COURT
WESTERN DISTRICT
OF ARKANSAS
Sep 12, 2018
OFFICE OF THE CLERK

V. Lt. Adam Clark, et al.

Case No. 18-6088

(Enter above the full name of the Defendant
or Defendants, in this action.)

I. Previous Lawsuits

A. Have you begun other lawsuit in state or federal court dealing with the same facts in involved in this action?
yes No ✓

B. If your answer to (A) is yes, describe each lawsuit in the space below including the exact Plaintiff name or alias used. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to previous lawsuit

Plaintiff: _____

Defendants: _____

2. Court (if federal court, name the district; if state, name the county):

3. Docket number: _____

4. Name of judge to whom case was assigned: _____

5. Disposition (for example: Was the case dismissed? Was it appealed?
Is it still pending?) _____

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

(Revised 07/2014)

II. Place of Present confinement: ORCU - ADC

III. There is a written prisoner grievance procedure in the Arkansas Department of Correction and in your county jail. Failure to complete the grievance procedure may affect your case in federal court.

A. Did you present the facts relating to your complaint in the state or county written prisoner grievance procedure?

Yes No

B. If your answer is YES, attach copies of the most recent written grievance(s)/response(s) relating to your claims showing completion of the grievance procedure. FAILURE TO ATTACH THE REQUIRED COPIES MAY RESULT IN THE DISMISSAL OF YOUR COMPLAINT. If copies are not available, list the number assigned to the grievance(s) and the approximate date it was presented.

C. If your answer is NO, explain why not: _____

IV. Parties

(in item A below, place your name in the first blank and place your present address in the second blank.)

A. Your Full Name: Daniel Bryce Hurlbut #658898
Address: 310 Correction Dr. POBox 1630
Malvern, AR 72104

(in item B below, place the full name of the Defendant in the first blank, his official position in the second blank, his place of employment in the third blank, and his address in the fourth blank.)

Do Not List Witnesses.

You may not name the jail as a Defendant. The jail is a building and cannot be sued.

B. Read carefully and fill out all information sought.

1. Defendant #1

Full Name: _____

Position: _____

Place of Employment: _____

Address: _____

See next page

Defendant #1

Full Name: Adam Clark
 Position: Lieutenant
 Place of Employment: ORCU - ADC
 Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #2

Full Name: Joshua Williams
 Position: Corporal - ERT
 Place of Employment: ORCU - ADC
 Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #3

Full Name: Sammy Jarrett
 Position: Sergeant - ERT
 Place of Employment: ORCU - ADC
 Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #4

Full Name: Jason Clemons
 Position: Sergeant - ERT
 Place of Employment: ORCU - ADC
 Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #5

Full Name: Paul Walter
 Position: Lieutenant - ERT
 Place of Employment: ORCU - ADC
 Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #6

Full Name: Mario Trokodovic
 Position: Sergeant - ERT
 Place of Employment: ORCU - ADC
 Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #7

Full Name: Arrion Delaney
 Position: Sergeant, ERT camera
 Place of Employment: ORCU - ADC
 Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #8

Full Name: McDonnell

Position: Corporal Camera

Place of Employment: ORCU - ADC

Address: 300 Correction Dr / PO Box 1630

Malvern, AR 72104

Defendant #9

Full Name: Goldman

Position: Nurse - CCS

Place of Employment: ORCU - ADC CCS

Address: 300 Correction Dr / PO Box 1630

Malvern, AR 72104

Defendant #10

Full Name: Kennie Bolden

Position: Major - Security Building

Place of Employment: ORCU - ADC

Address: 300 Correction Dr / PO Box 1630

Malvern, AR 72104

Defendant #11

Full Name: Faust

Position: Warden

Place of Employment: ORCU - ADC

Address: 300 Correction Dr / PO Box 1630

Malvern, AR 72104

Defendant #12

Full Name: Secure Phone Technology Company

Position: Phone Contractor

Place of Employment: ADC

Address: _____

Defendant #13

Full Name: Asa Hutchinson

Position: Governor

Place of Employment: AR

Address: _____

Defendant #14

Full Name: _____

Position: _____

Place of Employment: _____

Address: _____

Claim 1:

First Amend't - Right to call lawyer, privileged correspondence, protected speech, inaccessible remedies

Defendants:

LT. Adam Clark, Securus

On 7/24/2018 LT Adam Clark came to my cell in SNC 42 where I was housed for protection, very angry and wanting me to "catch the cuffs". He would not explain why. I have serious mental health issues and this provoked my PTSD and panic disorder. I asked for a grievance which he refused.

I asked to call my lawyer, which would make me feel safe, and he refused. He left to assemble a cell extraction team. Officers were instructed by LT Clark not to allow me the phone, especially to call my lawyer. I had my friend use my info. to try and call my lawyer and warn him what was going to happen. My friend said it "was on a loop" and kept repeating the same info, not letting the call through - something we've never experienced before.

This is an unlawful feature Securus has put in its software to record, monitor or disrupt or prevent supposedly privileged calls with my

attorney. Days after the incident the phone was working fine again.

Lt. Adam Clark used Seurus technology to knowingly disrupt my protected speech/conduct so my lawyer would be unable to intervene on my behalf.

—Personal & official capacities—

Claim 2: 

Excessive Use of Force; Denial of Due Process

Deliberate Indifference to Medical
Defendants:

ALL Security Defendants

The month of July is the anniversary of my first wife's suicide. I historically have a lot of anxiety, depression and mental issues that time of year.

I believe all defendants planned and intended to hurt me.

LT Clark tried to spray me and I tried to stop him from spraying me by grabbing the mace. When he said the team was coming in, I turned to face away and put my hands above my head to show non-aggression.

The team rushed in and smashed me all over the wall and floor. I tried to say I was not resisting. After I was on the floor face down and hand cuffed, they began punching and kicking me in my head face and body.

The camera operators caused this incident to occur during a specially timed blind-spot where they knew their actions would not be recorded.

They carried me to Isolation and cut my clothes off. They put me in a shower for a few seconds.

with hot water for only a few seconds. I begged for more water but they refused. They never allowed me to see a nurse. Then, Defendants put me in a cell with a bar of soap. Saying "you'll figure it out." And when I tried the sink, the water was turned off. I was refused a grievance and a phone call to my lawyer because I was on "Behavior Control". The reports were falsified and misrepresented the facts, and Warden Fawst refused to investigate.

— Official and personal capacities —

Claim #3:

Retaliation - Grievance / litigation,
First Amend't Protected Speech - redress grievance,
Privileged Commu'n - Attorney, Access Courts

Defendants:

All Security Defendants, Warden Faust

After I wrote a grievance and called my lawyer who called Warden Faust, Lt. Clark and Cpl. Joshua Williams came to my cell for shakedown. They took my law work, Prison Legal News, law books, hygiene and even my clothes and blanket. They said Warden Faust is tired of my bullshit.

- Official (personal capacities) -

If you asserting an official capacity claim, please describe the custom or policy that you believe caused the violation of your constitutional rights.

VII. **Relief**

If you are seeking to recover damages from the named Defendants, check the appropriate blank or blanks below for the type or types of damages that you are seeking:

compensatory damages (designed to compensate persons for injuries, such as physical pain and suffering, etc., that are caused by the deprivation of constitutional rights)

punitive damages (designed to punish a Defendant for engaging in misconduct and deter a Defendant and others from engaging in such misconduct in the future)

State briefly any other relief you are seeking in this action. Make no legal arguments. Cite no cases or statutes.

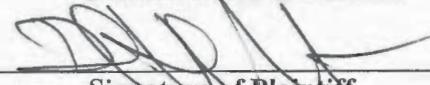
Protective Order

Change to Use of Force policy, Injunction to remove ability to monitor, block legal phone calls

I declare under penalty of perjury (18 U.S.C. § 1621) that the foregoing is true and correct.

Executed this 7 day of September, 2018.

Daniel Hurlbut
Printed Name of Plaintiff


Signature of Plaintiff

UNIT LEVEL GRIEVANCE FORM (Attachment I)Unit/Center ORC4Name Daniel HurlbutADC# 658896 Brks # 24 Job Assignment WISER

JUL 31 2018

OUACHITA RIVER UNIT
GRIEVANCE OFFICE

FOR OFFICE USE ONLY

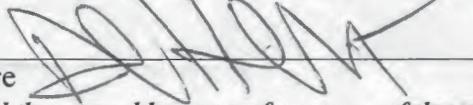
GRV. # 0818-00908Date Received: 7-31-18GRV. Code #: 4007.23. (Date) STEP ONE: Informal Resolution7.30. (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)If the issue was not resolved during Step One, state why: Not resolved

, (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: _____

Is this Grievance concerning Medical or Mental Health Services? _____ If yes, circle one: medical or mental

BRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print):

On July 19, I was having serious pain in my
because LT. Clark said I could not call my lawyer or get a grievance until I
gave up and no one would explain why. I had anxiety and left the room
to cover up plot to hurt me for my litigation. When someone tried to call
for me b/c I felt my life was in danger, the phone would not let the
call go thru, probably someone preemptively tampered with it
before the extraction from jail. I turned away and placed hands
above head to show very hostile intentions. I was taken to the guard
cuffed and then punched multiple times in the face. I was only
decontaminated for a few seconds in the shower, not 70 minutes. I
was put in the cell still blinded and in my own cleaned medical.
LT Clark said I am not allowed to call my lawyer, write a
grievance or behavior control. I couldn't show either and got strip搜.
The use of force used will prove everything I say is true and
that documents were falsified. Retaliation for litigation/grievances

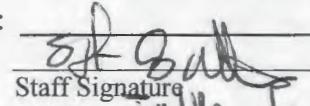
Inmate Signature 

AUG 07 2018

Date

*If you are harmed/threatened because of your use of the grievance process, report it immediately to the Warden or designee.***THIS SECTION TO BE FILLED OUT BY STAFF ONLY**This form was received on 7-30-18 (date), and determined to be **Step One** and/or an Emergency Grievance(Yes or No). This form was forwarded to medical or mental health? NO (Yes or No). If yes, nameof the person in that department receiving this form: Shawn

PRINT STAFF NAME (PROBLEM SOLVER)

ID Number 45319Staff Signature Date Received 7-30-18

Describe action taken to resolve complaint, including dates: Called to LT. Clark. He stated
that he didn't retaliation was not made against you. You were
seen by medical by Nurse Goldman. You were placed into the shower and was
given towels with a reasonable amount of cool running water. No false information was ever
made. All actions were in accordance with the policies and procedures.

Staff Signature & Date Returned Shawn - 7-30-18 Inmate Signature & Date Received 7-30-18This form was received on _____ (date), pursuant to **Step Two**. Is it an Emergency? _____ (Yes or No).

Staff Who Received Step Two Grievance: _____ Date: _____

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____

If forwarded, provide name of person receiving this form: _____ Date: _____

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; BLUE - Grievance Officer; ORIGINAL - Given back to Inmate after Completion of Step One and Step Two.

IGTT400
3GR

Attachment II

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCETO: Inmate Hurlbut, Daniel
FROM: Orr, Vickie L
DATE: 08/01/2018ADC #: 658898B
TITLE: ADC Inmate Grievance Coord
GRIEVANCE #: OR-18-00908Please be advised, I have received your Grievance dated 07/23/2018 on 08/01/2018.

Your grievance was rejected as either non-grievable, untimely, duplicative, frivolous, or vexatious.

RECEIVED

Signature of ADC Inmate Grievance Coord

AUG 07 2018

CHECK ONE OF THE FOLLOWINGINMATE GRIEVANCES SUPERVISOR
ADMINISTRATION BUILDING

- This Grievance will be addressed by the Warden/Center Supervisor or designee.
- This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.
- This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.
- This Grievance has been determined to be an emergency situation, as you so indicated.

This Grievance has been determined to not be an emergency situation because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a Non-Emergency.

This Grievance was REJECTED because it was either non-grievable (Disciplinary matter), untimely, was a duplicate of , or was frivolous or vexatious.

*Not about Disciplinary
And RETALIATION***INMATE'S APPEAL**

If you disagree with a rejection, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

This about Improper Cell Extraction and excessive use of force by LT Clark and cell extract team NOT about the disciplinary which I have addressed in disc.appeal. Video will show I was beaten and punched in the face while in hand-cuffs on the ground I was refused phone and grievance. This was RETALIATION for my litigation/grievances. LT Clark called me a "wrist writer" now warden Faust refuses to investigate and Vickie Orr denies me administrative remedy. Please Exhaust.

Inmate Signature ADC # 658898Date 8.2.2018

IGTT430
3GD

Attachment VI

INMATE NAME: Hurlbut, Daniel

ADC #: 658898

GRIEVANCE#:OR-18-00908

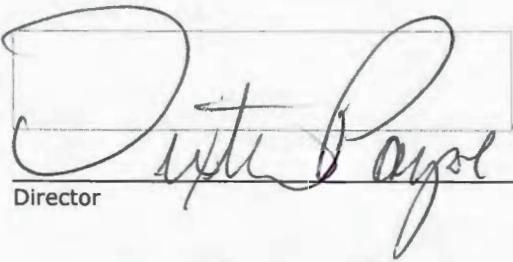
CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

In your grievance dated 7/23/18, you stated, "On July 19, I was havin serious paranoia because Lt. Clark said I could not call my lawyer or get a grievance until O cuff up and no one would explain why. I had anxiety and felt there was a cover up plot to hurt me for my litigation. When someone tried to call for me b/c I felt my life was in danger the phone would not let the call go thru probably someone preemptitively tampered with it before the extraction team came in I turned away and placed hands above head to show non hostile intentions. I was taken to the ground cuffed and then punched multiple times in the face. I was only decontaminated for a few seconds in the shower not 20 minutes. I was put in the cell still blinded and burning and denied medical Lt. Clark said I am not allowed to call my lawyer write a grievance on behavior control. I couldn't shower either and got staph. The use of force video will prove everything I say is true and that documents were falsified. Retaliation for litigation/grievances"

On 8/1/18 the unit responded to your grievance by rejecting it due to being a disciplinary matter.

Your appeal was received on 8/7/18. In review of your appeal and the response from the unit, I concur with the unit's decision. This is a disciplinary matter and should be addressed through the disciplinary process. I find no merit in your appeal.

Appeal denied.


Director

Date

8-22-18

UNIT LEVEL GRIEVANCE FORM (Attachment I)Unit/Center ORCUName Daniel HurtbutADC# 1058898 Brks # WIS 24 Job Assignment _____

FOR OFFICE USE ONLY

GRV. # SNN18-00016

Date Received: _____

GRV. Code #: _____

(Date) STEP ONE: Informal Resolution

8/10/18 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)
If the issue was not resolved during Step One, state why: Dental of Remedies8/17/18 (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: This should be taken directly to the Warden or designee I was harmed by my use of the grievance.Is this Grievance concerning Medical or Mental Health Services? If yes, circle one: medical or mental**BRIEFLY** state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print): This grievance is about retaliation for my grievances and litigation by Warden Faust, Lt. Clark and other members of the extraction team I wrote a grievance on. Today they did a shake down of WIS 24 and were taking items allowed by policy. So that Warden Faust wanted to target and harass inmates not wanting to go back to Gen Pop. They came in my cell, took my evidence folder for my active cases, my legal news, my law book, stamped envelopes, law book "DCI's Plaintiff Self Help Litigation Manual" all my hygiene, blanket, sheets, socks, soap, toothpaste, toothbrush, etc. They refused to do a confiscation inventory form. Officer Holstein on the floor began passing the property back to inmates. CO Thomas refused to allow him to bring my property back, refused to take me to medical. and refused me a grievance and refused to allow me to call my lawyer. I demand my stuff back and that Internal Affairs investigate. Not safe at this unit. Constant retaliation by staff and warden.Inmate Signature DO NOTDate Aug. 13. 2018If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or designee.**THIS SECTION TO BE FILLED OUT BY STAFF ONLY**This form was received on _____ (date), and determined to be Step One and/or an Emergency Grievance (Yes or No). This form was forwarded to medical or mental health? (Yes or No). If yes, name of the person in that department receiving this form: _____ Date _____

PRINT STAFF NAME (PROBLEM SOLVER)

ID Number

Staff Signature

Date Received

Describe action taken to resolve complaint, including dates: _____

Staff Signature & Date Returned

Inmate Signature & Date Received

This form was received on _____ (date), pursuant to Step Two. Is it an Emergency? (Yes or No).

Staff Who Received Step Two Grievance: _____ Date: _____

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____

If forwarded, provide name of person receiving this form: _____ Date: _____

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; **BLUE** - Grievance Officer; **ORIGINAL** - Given back to Inmate after Completion of Step One and Step Two.

IGTT450
3GI

Attachment VIII

Arkansas Department of Correction Inmate Grievance Investigation Worksheet

The below listed inmate has filed a grievance/appeal with this office. In the area for an employee statement, please write a detailed response regarding the issue(s) stated by the inmate in this grievance. The statement "I have no knowledge", is not acceptable. Also, please submit any supporting documentation with your response, i.e., disciplinary, 005's, logs, medical information, other officers and/or inmate statements, etc.

EMPLOYEE: Thomas, Joseph

UNIT: Ouachita River Correctional Unit

RE: INMATE: Hurlbut, Daniel

ADC#: 658898

FROM: Orr, Vickie LDUE DATE: 08/30/2018

GRIEVANCE #: SNN18-00076

DATE OF INCIDENT: 08/23/2018

Inmate's Complaint:

This grievance is about retaliation for my grievances and litigation by Warden Faust, Lt. Clark and other members of the extraction team I wrote a grievance on. Today they did a shakedown of WISO and were taking items allowed by policy. Said that Warden Faust wanted to target and harass inmates not wanting to go back to gen. pop. They came in my cell, took my evidence folder for my two active cases, one on Dr. Liggett, my prison legal news, my law work, stamped envelopes, law book "Disciplinary self help litigation manual" all my hygiene, blanket, sheets, socks, sop, toothpaste, toothbrush, etc. They refused to do a confiscation inventory form. Officer Holstein on the floor began passing the property back to inmates. CO Thomas refused to allow him to bring my property back, refused to take me to medical and refused me a grievance and refused to allow me to call my lawyer. I demand my stuff back and that Internal Affairs investigate. Not safe at this unit. Constant retaliation by staff and Warden.

Employee Statement:

1. Did you pack up inmate Hurlbut's property during shakedown?
2. Did you confiscate items that he is allowed to have in Isolation?
3. Did you refuse to let another officer give inmate Hurlbut his property back?
4. In addition to answering the questions, please write a detailed response regarding the issue(s) stated by the inmate in this grievance. The statement "I have no knowledge", is not acceptable. Also, please submit any supporting documentation with your response, i.e., disciplinary, 005's, logs, medical information, other officers and/or inmate statements, etc.

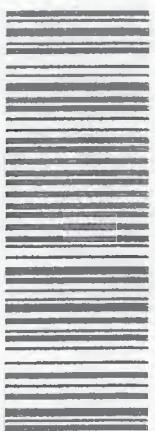
Responding Staff Signature

Date

You are not to retaliate against this inmate for submitting this grievance. You are not to discuss this grievance with anyone, staff or inmate, except as necessary to complete your statement. If you are found to have retaliated against any inmate for using the grievance procedure, you will be subject to disciplinary action, which may be a verbal warning, a written warning, and/or termination.

USDC - Pa Se Clerk
35 E Mountain - Room 510
Fayetteville, AR 72701

Daniel Hurllbat #658898
PO Box 1630
Malvern, AR 72104



701 1000 0000 3927 1569

US DISTRICT COURT
WESTERN DIST. ARKANSAS
FILED
SEP 11 2018

Douglas F. Young, Jr.
Deputy Clerk

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09/08/2018

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